



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

31249

D-178477

August 13, 1973

Mr. R. J. Schullery
Authorized Certifying Officer
Financial Systems Division, AAA-430
Office of Accounting and Audit
Federal Aviation Administration
Department of Transportation

Dear Mr. Schullery:

Your letter of June 4, 1973, requests our decision as to the propriety of certifying for payment a voucher in the amount of \$2,016 submitted by Mr. Matthias J. Strahm for reimbursement of expenses incurred in July 1972 incident to the sale by Mr. Strahm of a residence in Prairie Village, Kansas, in connection with his transfer of official station from Kansas City, Missouri, to Des Plaines, Illinois.

The record indicates that Mr. Strahm was officially notified of his change of station by letter dated January 3, 1972; however, his actual transfer was delayed until July 1972 because of the unavailability of office space at the new station. He was verbally authorized to proceed with the permanent change of station on May 1, 1972, and that authorization was confirmed by a written travel order dated June 9, 1972. Mr. Strahm reported for duty at his new station on July 6, 1972.

Mr. Strahm had, in the meantime, been married on April 26, 1972, and after that marriage moved into the dwelling in Prairie Village in which his wife and her children were residing at the time of the marriage. That dwelling, which was apparently acquired by Mrs. Strahm in 1968, was later sold incident to the transfer.

You have expressed doubt as to whether the claim may be certified for payment since the dwelling sold by Mr. Strahm was not his residence in January 1972 at the time he was first informed by competent authority that he was to be transferred, and in that regard you refer to the provisions of section 4.1d of Office of Management and Budget (OMB) Circular No. A-56. You point out, however, that the employee did not acquire the dwelling he sold for the purpose of obtaining personal financial gain and believe that because the transfer was delayed by the agency for 6 months, Mr. Strahm may have a just claim.

PUBLISHED DECISION
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Section 4.1 of GPM Circular No. A-36, to which you refer, provides in part as follows:

" * * * To the extent allowable under this provision, the Government will reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station; purchase (including construction) of one dwelling at his new official station; or the settlement of an unexpired lease involving his residence or a lot on which a mobile home used as his residence was located at the old official station; provided that:

* * * * *

"c. * * * In order to be eligible for reimbursement of costs of selling a dwelling or terminating a lease at the employee's old official station, acquisition of the employee's interest in the property must have occurred prior to the date when the employee was first definitely informed that he is to be transferred to the new official station.

"d. * * * The dwelling for which reimbursement of selling expenses is claimed was the employee's residence at the time he was first definitely informed by competent authority that he is to be transferred to the new official station."

The literal language of section 4.1 permitting reimbursement of the expenses of the sale of a dwelling at the old official station only if the employee acquired his interest in the dwelling and if the dwelling was his actual residence at the time he was first definitely informed of the transfer would appear to preclude any reimbursement of selling expenses of a house which an employee neither had title in nor used as his residence at the time he was first officially informed of the transfer. However, our view is that the regulation was not intended for application in a situation such as here where the employee had in fact established a bona fide residence in his wife's home prior to transfer. Accordingly, where an employee, subsequent to receiving notice of a transfer but prior to the actual date of transfer marries and thereafter establishes a residence in a dwelling which had been owned and occupied by his wife at the time he was first officially informed of the transfer, and the employee and his wife occupy the dwelling at the time of transfer, we do not think he should be precluded from claiming the

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expenses of selling the dwelling incident to the move with his family to the new official station.

Accordingly, we would not object to reimbursing Mr. Strain for the selling expenses to the extent they are otherwise proper under Circular No. A-56. The voucher, which is returned herewith together with supporting papers, may be certified for payment in accordance with the above.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States